

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Strickland Analyst: Marion Mann DeJong Bill Number: AB 156

Related Bills: See Legislative Telephone: 845-6979 Introduced Date: 01/15/1999

History Attorney: Doug Bramhall Sponsor: _____

SUBJECT: Firearm Locking Device Credit

SUMMARY

This bill would create a tax credit equal to the amount paid or incurred (up to \$75 per device) by the taxpayer during the taxable year for the purchase of a locking device on a firearm.

EFFECTIVE DATE

As a tax levy, this bill would become effective immediately and apply to taxable years beginning on or after January 1, 1999, and before January 1, 2004.

LEGISLATIVE HISTORY

AB 9 (1999), AB 94 (1998).

SPECIFIC FINDINGS

Current federal and state laws allow a taxpayer to deduct expenses paid or incurred in the ordinary course of a taxpayer's business. Generally tax deductions are not allowed for personal expenses. Personal expenses that are deductible, except for items such as charitable contributions, medical expenses, interest, and taxes, are primarily work-related and considered miscellaneous itemized deductions. Miscellaneous itemized deductions are deductible to the extent that they exceed 2% of adjusted gross income.

Current federal and state laws provide for various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions.

This bill would create a personal income tax (PIT) credit equal to the amount paid or incurred by the taxpayer during the taxable year for the purchase of a locking device on a firearm. The maximum amount of credit is \$75 for each device and \$225 for any taxable year.

"Locking device" would mean a device designed to prevent the firearm from functioning, which, when applied to the firearm, renders the firearm inoperable. "Firearm" would mean any device designed to be used as a weapon, from which a projectile is expelled through a barrel by the force of any explosion or other form of combustion.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Gerald Goldberg

2/22/1999

Any credit in excess of "net tax" could be carried forward indefinitely. Since this bill does not specify otherwise, this credit would not reduce regular tax below tentative minimum tax.

Policy Considerations

This bill would raise the following policy considerations:

- The bill would provide a credit for PIT "taxpayers," which includes partnerships, estates and trusts, and certain limited liability companies. However, the credit is not provided to corporations. If the author intends to limit the credit to individuals, the term "taxpayer" should be changed to "individual." If the author intends to allow the credit to partnerships and other entities taxable under the PIT law, the author might consider allowing the credit to corporations. However, expanding the credit to corporations would increase the revenue loss.
- It is unclear whether each spouse could claim the credit when a joint return is filed (for maximum \$225 credit for each spouse) or whether a single credit would be divided between the spouses. Further, it is unclear how the \$225 limit is applied to carryovers. For example, does the limit apply to current year expenditures or does it also limit carryovers.
- This bill would provide a credit to taxpayers who purchase locking devices for resale or as gifts.
- This bill would allow a credit for a locking device purchased for use on an unregistered firearm or one registered in another state.
- Although this bill would provide a credit for the purchase of a locking device, there is no way to ensure that the device will be used by the taxpayer.
- Some local governments, like San Diego, require gun dealers to sell a locking device with each new or used handgun. Thus, this bill would provide a tax benefit for actions already mandated by some local ordinances.

Implementation Considerations

This bill would provide an unlimited carryover of excess credit amounts. Credits with unlimited carryovers must be maintained on tax forms and systems even when the credit has expired. Since tax credits are usually used within eight years, most recently enacted credits contain limited carryover provisions, usually eight or ten years.

Technical Considerations

Amendment 1 would clarify the definition of "locking device" by clarifying the reference to the Penal Code.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

Based on data and assumptions discussed below, this bill would result in the following losses.

Estimated Revenue Impact of AB 156 As Introduced 01/15/1999 [\$ In Millions]		
1999-2000	2000-2001	2001-2002
(\$9)	(\$9)	(\$9)

The bill would be effective for taxable years beginning on or after January 1, 1999, with enactment assumed after June 30. Estimates assume all credits generated in a given year would be applied to reduce tax liabilities. Losses would be under the PITL.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

The number, type, and quality of locking devices (as defined and limited by the bill) that are purchased by taxpayers, the cost of devices and the amount of credits that are applied to reduce tax liabilities would determine the revenue impact of this bill. "Locking device" is assumed to include trigger, cable, grip, magazine, and plug locks. The cost for locking devices ranges from a low of \$10-\$15 to a high of \$70-\$90.

Separating the "potential demand" for locking devices into two groups was the first step in developing a revenue estimate: (1) new or used firearm(s) purchased in the current year, and (2) the inventory of firearms purchased in all previous years.

In California, current legal sales of firearms range from 350,000 to 500,000 annually. In 1998, sales totaled about 350,000. Assuming two-thirds of projected annual sales of 350,000 either come with or the buyer pays extra for a qualifying locking device, and an average cost per device of \$20, revenue losses attributed to this group would be \$4.6 million annually. If an equal number of devices are purchased each year for the second group consisting of firearms acquired in previous years, additional losses of \$4.6 million annually would occur. These assumptions allow for the incentive effect of the bill in offsetting the cost of locking devices partially or fully due to the tax credit.

Available literature indicates Americans own 192 million firearms, including 65 million handguns. Handguns are about one-third of all guns owned. If California's distributive share of these firearms is equal to its share of population, then there could be roughly 23 million firearms, including nearly 8 million handguns, in California.

BOARD POSITION

Pending.

Marion Mann DeJong
845-6979
Doug Bramhall

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 156
As Introduced January 15, 1999

AMENDMENT 1

On page 2, modify line 7 as follows:

paragraph (1) of subdivision (a) of Section 12035 of the Penal Code.